

## Part I: Defining Genocide

According to the United Nations Genocide Convention, genocide is a coordinated plan to destroy, in whole or in part, a national, ethnic, racial or religious group by killing, causing serious bodily or mental harm, inflicting conditions designed to bring about its destruction, preventing births within the group, or removing children from the group. Many genocides have occurred throughout history, from the murder of Christians by the Romans in the first century to the deaths of nearly one million people in Rwanda in 1994. Yet the word genocide did not exist until the 1940s.

Until then, there was no single word to describe the organized destruction of an entire group. It may seem strange to us today, but there was also no legal mechanism for the international community to respond to mass murder and atrocities perpetrated against a people. If a person killed someone on the street, he or she could be charged with a crime: murder. He or she could then be prosecuted under the laws of that country and punished if found guilty. If a government or another group attempted to annihilate a whole group of people, what crime had it committed? It was murder on a mass scale, but how could the state be held responsible? Who held jurisdiction for prosecuting such a large-scale crime?

### ***Who devised the term "genocide"?***

Raphael Lemkin, a legal scholar, recognized that these questions needed to be answered. He began thinking about the questions after the Armenian Genocide (1915-1918) and contemplated the answers from the early 1920s until his death.

Lemkin followed the case of a young Armenian, Soghomon Tehlirian, who had murdered the Turkish minister of the interior in Berlin in 1920 because Tehlirian held the minister responsible for the organized killing of Armenians. Lemkin found it hard to understand a system in which Tehlirian could

be charged and tried for the death of a single man, but which did not hold Turkish leaders accountable for the mass killing of Armenians.

***"Is it a crime for Tehlirian to a kill man, but it is not a crime for his oppressor to kill more than a million men?"***

—Raphael Lemkin

Lemkin began what would become a lifelong crusade to convince the international community that it must do something to prevent what had occurred in Armenia from happening in other places.

### ***What is the international community?***

The international community is a general term often used to describe the interaction of countries and how they cooperate together to resolve issues among them. Lemkin believed that preventing genocide was complex, requiring international cooperation to stop states or groups from committing mass murder.

The events of the early twentieth century changed how countries saw the international community. U.S. President Woodrow Wilson put forward an ambitious plan to build a more peaceful and cooperative world. He proposed a League of Nations that would attempt to enforce basic principles of conduct for states. It was this framework that Lemkin attempted to harness in his own battle to make genocide an international crime.

### ***How was the international community affected by the First World War?***

The First World War created the climate in which the Armenian Genocide took place. It also created the impetus for the international community to begin to organize itself in order to prevent further death and destruction from war.

World War I changed the way the world viewed itself. Ten million soldiers died on the

***Why did the United States reject a larger international role?***

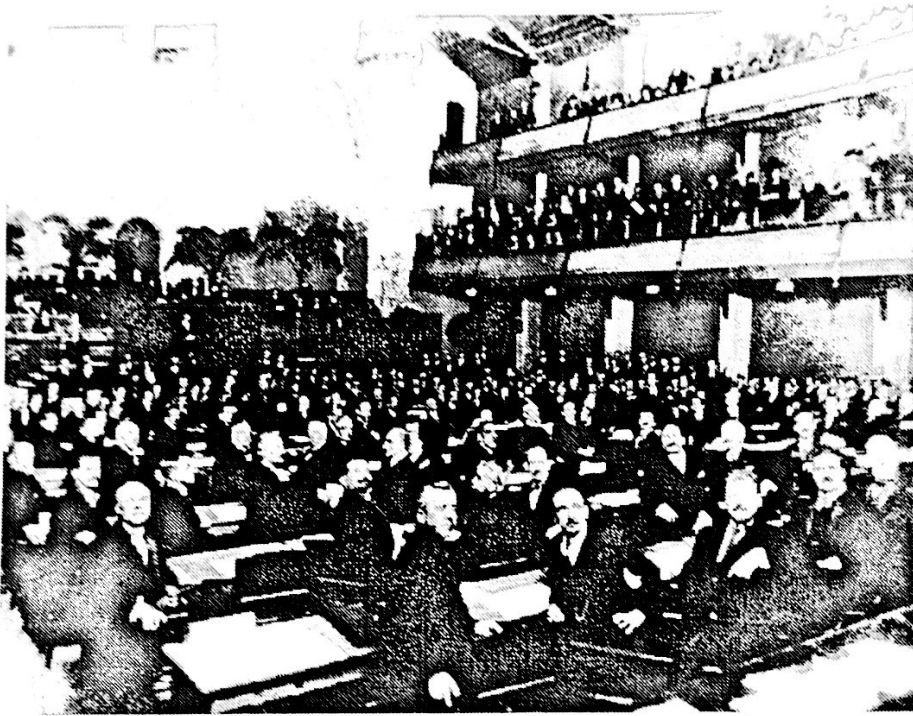
Britain, France, and Italy, the key allies of the United States in World War I, had little use for Wilson's ideas. Rather, they wanted the League of Nations to secure their wartime victory. As the chairman of the special committee that drew up the blueprint of the League in 1919, Wilson worked hard to maintain unity among the Allied forces. His committee's proposal for the organization of the League reflected British and French concerns.

When negotiations concluded, President

Wilson took the case for the League to the U.S. public. He claimed that the League would build on the progress of earlier international peace conferences. According to Wilson's recommendations, all member states of the League would gather annually to discuss international issues. Meanwhile, a council of the world's great powers would meet more frequently to deal with international crises. Opponents of the League argued that the new organization would largely be a tool of Britain and France. In the U.S. Senate, opponents objected to the provision that required members to come to the defense of any other member under attack. They did not want U.S. troops to be forced to defend the borders of a French colony in Africa or to protect the British Empire's interests in India, for example.

***Why did the League of Nations fail?***

After the League of Nations treaty took effect in January 1920, the organization's flaws became apparent. Enforcement of the League's ambitious covenant proved to be the biggest problem. Although League members pledged to cooperate in preventing aggression, pro-



The League of Nations at its opening session in Geneva, November 15, 1920.

battlefield and at least five million civilians perished from disease and starvation. Many historians argue that a system of international communication that included procedures to resolve disputes would have prevented World War I.

President Woodrow Wilson also believed that a failure in the international system led Europe into World War I. Even while the war was raging, Wilson drafted a plan for lasting world peace. In January 1918, he unveiled his fourteen-point proposal to reshape international relations. Central to Wilson's plan were the principles of self-determination, open diplomacy, freedom of the seas, free trade, and arms limitation. To oversee the new international system, Wilson called for the creation of a permanent global organization—the League of Nations.

Wilson imagined a new era characterized by the open publication of treaties and the settlement of disputes by impartial commissions. Wilson hoped the League would serve as the “court of public opinion” in which the “conscience of the world” would make itself heard.

protecting the rights of minorities, and limiting armaments, there were no effective mechanisms to force them to honor the covenant. The requirement that all League members agree on important decisions often blocked action.

Moreover, League membership was far from universal. In 1920, the United States Senate rejected U.S. participation. Meanwhile, the British and French deliberately excluded other important countries from League membership. Germany, for example, was not allowed to join until 1926, while the Soviet Union was barred until 1934. Confronted with its first major challenge in 1931, the League failed to stop a Japanese invasion into the Chinese province of Manchuria. Later in the 1930s, the League proved powerless in the face of Italian and German aggression. By the time World War II began, international statesmen had all but given up on the League.

## World War II

While the millions of deaths of World War I shook the world, the death toll and ferocity of World War II would eclipse what had transpired a generation earlier and squelch Wilson's vision of a more cooperative world.

As Hitler's armies advanced to the east, they unleashed a form of warfare that included the elimination of entire groups of people

that they considered less than human including Jews, Slavs, Romanies, and others.

***“The whole of Europe has been wrecked and trampled down by the mechanical weapons and barbaric fury of the Nazis.... As his armies advance, whole districts are exterminated. We are in the presence of a crime without a name.”***

—British Prime Minister  
Winston Churchill

### ***How did World War II change the international community?***

During the Second World War, U.S. President Franklin D. Roosevelt envisioned an international community of countries that would cooperate to prevent conflict and end poverty and injustice throughout the world. Ultimately, Roosevelt's vision found its expression in 1945 when the countries fighting against Germany and Japan formed the United Nations in San Francisco.

In addition to Roosevelt's vision for a more cooperative international community, the Allies of World War II recognized that the enemy's atrocities and war crimes could not go unpunished. In 1943—in response to the large-scale murder of civilians by the Nazis—Great Britain, the United States, and the Soviet

### **The Madrid Conference**

In 1933, Raphael Lemkin planned to travel to Madrid to present a draft of a law to other international lawyers at an international conference. The law he had drafted intended to address the destruction of groups as well as their intellectual and cultural life. To make his case, Lemkin planned to recount the murder of the Armenians and to warn the international community of Hitler, who had recently come to power in Germany. The foreign minister of Poland, hoping to cultivate better relations with Hitler, refused to let Lemkin travel to Madrid. Instead, Lemkin's proposal was read aloud in Madrid to lawyers from thirty-seven different countries. There were few supporters. Those present wondered why these crimes the Ottoman Empire committed against Armenians years previously needed to be legislated against—they believed that these crimes happened so rarely that no law was needed. In addition, Lemkin's proposals were criticized because international law dealt with the law between countries, not with how countries treated people inside their own borders. Soon after the conference, Lemkin was fired from his job as a public prosecutor for refusing to stop criticizing Hitler. The Polish foreign minister accused him of insulting Poland's German “friends.”

## Giving the Crime a Name

Although genocide had existed since the beginning of recorded history, there was no single word to describe what it meant until Raphael Lemkin created the word "genocide" as a way to give a name to the terrible crime against the Jews of Europe by the Nazis. "Geno" is from Greek, meaning race or tribe, and "cide" is derived from Latin, meaning killing. Lemkin first used the word in his book *Axis Rule in Occupied Europe*, published in 1944, which outlined the law and practices of the Nazis in occupied Europe. Lemkin, a Jew, had fled Poland for the United States ahead of the Nazis. His family chose to remain in Poland. The Nazis murdered forty-nine of his relatives; only four survived.

Union signed the Moscow Declaration. Drafted by British Prime Minister Winston Churchill, it included a statement on atrocities that promised to prosecute those who had committed mass murder.

***“Let those who have hitherto not imbued their hands with innocent blood beware lest they join the ranks of the guilty, for most assuredly the three Allied powers will pursue them to the uttermost ends of the earth and will deliver them to their accusers in order that justice may be done.”***

—from the Moscow Declaration

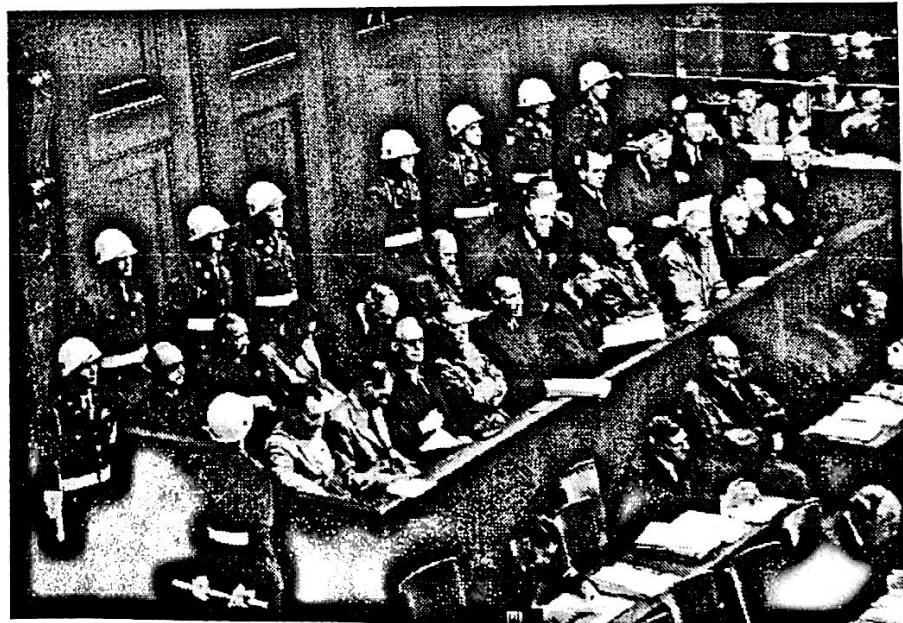
### What were the Nuremberg Trials?

Following their victory, the Allies kept the promise they had made and put twenty-four accused Nazi war criminals on trial in Nuremberg, Germany. (Many others would be tried later on; some were never tried.) They were charged with crimes against peace, crimes against humanity, and violating the rules of war. Numerous defendants argued that only a state and not individuals could be held responsible for these actions. They also argued that their actions were not illegal because, under the long-held international

principle of state sovereignty, a country is protected from outside interference. The court rejected these arguments and sentenced twelve defendants to death and seven to prison terms; three were acquitted. (Two of the defendants were not sentenced: one had committed suicide and the other was physically and mentally unable to stand trial.)

### What important legal principles emerged from the Nuremberg Trials?

The defendants at Nuremberg had been found guilty of crimes against humanity—not genocide, although Lemkin had encouraged the prosecutors to include the term genocide in the indictment. Even so, the international community agreed that some important legal principles came out of the Nuremberg Trials.



Accused Nazi war criminals on trial in Nuremberg, Germany.

Department of Defense

These Principles of the Nuremberg Tribunal were adopted into international law in 1950, eroding the absoluteness of state sovereignty.

**Principle I.** Any person who commits an act which constitutes a crime under international law is responsible therefore and liable to punishment.

**Principle II.** The fact that internal [state] law does not impose a penalty for an act which constitutes a crime under international law does not relieve the person who committed the act from responsibility under international law.

**Principle III.** The fact that a person who committed an act which constitutes a crime under international law acted as Head of State or responsible government official does not relieve him [or her] from responsibility under international law.

**Principle IV.** The fact that a person acted pursuant to order of his [or her] government or of a superior does not relieve him [or her] from responsibility under international law, provided a moral choice was in fact possible to him [or her].

**Why did Lemkin propose a UN resolution banning genocide?**

While Raphael Lemkin believed that the Nuremberg Trials were an important step, he also felt it necessary to create a law that did not link the prevention of genocide solely to wars between states. In 1946, Lemkin began a campaign at the UN to introduce a resolution prohibiting all forms of genocide. Lemkin's timing was good. Images of the Nazi death camps and testimony from Nuremberg were fresh in the public's mind.

In addition, as a new institution the UN held great promise. Lemkin was not accredited at the UN, but he spent days wandering the halls, working his way past security guards and cornering diplomats to lobby for the resolution. Lemkin argued that genocide could have a terrible effect on the world—not only in the present day but for the generations to come.

*“We can best understand this when we realize how impoverished our culture would be if the peoples doomed by Germany, such as the Jews, had not been permitted to create the Bible, or give birth to an Einstein, a Spinoza; if the Poles had not had the opportunity to give to the world a Copernicus, a Chopin, a Curie; the Czechs, a Huss, a Dvorak; the Greeks, a Plato and a Socrates; the Russians, a Tolstoy and a Shostakovich.”*

—Raphael Lemkin

In December 1946, the UN General Assembly unanimously passed a resolution that condemned genocide and began to draft a treaty that would ban the crime.

*“The right to exterminate entire groups which prevailed before the resolution is gone. From now on no government may kill off a large block of its own subjects or citizens of any country with impunity.”*

—The New York Times, January 5, 1947

**What is State Sovereignty?**

State sovereignty means the absolute authority of the state to govern itself free from outside interference. Governments—whether headed by democratically elected officials or self-imposed dictators—have traditionally defended the principle of sovereignty. Sovereignty has served as the foundation of international relations. Governments have supported the UN, the League of Nations, and earlier international efforts based on the assumption that their sovereignty would be protected. In practical terms, sovereignty has never been absolute. Strong countries have always influenced the policies of weaker countries.

## The Genocide Convention

Traveling between New York and Geneva, Lemkin continued to lobby hard for the treaty. On December 9, 1948, the UN unanimously passed the Genocide Convention. The treaty made genocide a crime and obligated its signers to prevent, suppress, and punish genocide. The treaty held violators responsible whether they attacked another state or acted inside their own borders. The Genocide Convention further eroded the principle of sovereignty that had been weakened at Nuremberg: states could no longer expect freedom from outside interference if they were committing genocide.

### *How did the Cold War affect the role of the UN?*

International cooperation on all issues at the UN proved difficult due to increasing hostility between the United States and its wartime ally, the Soviet Union. These tensions were so profound that they became known as the Cold War and would last for nearly four decades. Due to U.S. and Soviet power within the Security Council and both countries' ability to veto UN decisions, U.S.-Soviet hostility often prevented the Security Council from acting. Voting in the UN General Assembly generally followed the lines of Cold War alliances. Whenever key U.S. and Soviet interests clashed, there was little hope of making treaties work—including the Genocide Convention.

### *What was the reaction in the United States to the convention?*

President Harry S. Truman strongly supported ratification of the Genocide Convention by the U.S. Senate (as required by the Constitution). The convention ran into opposition in the Senate on several grounds. First, the language was ambiguous. For example, it was unclear how many people had to be killed for an event to be considered genocide or if it was even a matter of numbers. Some worried that the convention could make possible the intervention in another state's internal affairs when genocide was not taking place. Others claimed that some of the provisions, including the lines about inflicting "mental harm," could be applied against the United States in the racially segregated South or that the United States could be held accountable under the convention for genocide against Indian tribes in the nineteenth century. The main objection to the treaty was that it was seen as infringing on U.S. sovereignty and would allow foreign countries and organizations to examine the internal affairs of the United States.

In addition, some politicians distrusted the United Nations. This affected the progress of ratification by the Senate. President Eisenhower, newly elected and not willing to alienate a powerful group in the Senate including Senator Joseph McCarthy, disavowed the Genocide Convention and all other human rights treaties. Eisenhower's administration felt that these treaties exceeded the traditional bounds

## Cold War Genocide?

Not only did Cold War tensions stall international cooperation on genocide, in some cases the global conflict over political ideology contributed to genocidal activity. In Guatemala in 1954, the CIA helped overthrow a leftist government and installed a conservative government friendly to U.S. business interests. For the next eighteen years the Guatemalan government engaged in armed struggle with Marxist resistance movements. Then in 1982, the military began a systematic and brutal campaign, torturing and killing thousands of Mayan peasants and displacing 1.5 million from their homes. In 1999, the United Nations Commission for Historical Clarification released an official report estimating that over 200,000 people had been killed in the conflict (most of Mayan descent) and that 93 percent of the human rights violations had been committed by the military. Shortly after the release of the report, U.S. President Bill Clinton publicly admitted and apologized for U.S. involvement in the Guatemalan war, and in 2004 the Inter-American Court ruled that genocide had taken place in Guatemala.

of international law by trying to influence the internal workings of individual countries. Secretary of State John Foster Dulles said that the United States would use education, not law, to further the cause of human rights around the world.

The Genocide Convention received little attention in the Senate until 1967. Senator William Proxmire of Wisconsin, with the backing of Senator Claiborne Pell of Rhode Island, began a campaign to resurrect consideration of the Genocide Convention with a speech on the floor of the Senate.

**“The Senate’s failure to act has become a national shame... I serve notice today that from now on I intend to speak day after day in this body to remind the Senate of our failure to act and of the necessity for prompt action.”**

—Senator William Proxmire

Over the next seventeen years, Proxmire would make 3,210 more speeches (one every morning on the Senate floor) against genocide.

### **When did the United States ratify the Genocide Convention?**

Proxmire’s speeches were all different. He recounted genocides around the world. He pointed out that the Soviet Union ratified the convention in 1953, and he often highlighted the effects that U.S. failure to ratify the treaty had on international debates and diplomacy. He also identified the U.S. failure to help the Jews during World War II. This began to hit home around the fortieth anniversary of the Allied liberation of Nazi extermination camps.

In 1985, President Ronald Reagan visited a cemetery in Bitburg, Germany. The visit was intended to mark the anniversary of the end of World War II and to demonstrate solidarity with German Chancellor Helmut Kohl, an important ally in the Cold War struggle against the Soviet Union. In addition to the German soldiers buried there, there were members of the SS, known for its brutality and its central

role in the extermination of Jews. Although Reagan added a visit to a concentration camp, there was an outpouring of criticism in the United States from many veterans’ groups, Jewish organizations, and members of both political parties angered by the president’s cemetery visit. In response to the protests, the White House decided to push for ratification of the Genocide Convention. On February 11, 1986 the Senate ratified the Genocide Convention 82-11.

### **What reservations did the Senate attach to the Genocide Convention?**

Although the United States Senate approved the Genocide Convention, it attached a series of reservations to the treaty designed to protect U.S. sovereignty. (International law permits states to attach reservations, declarations, or understandings to a treaty that qualify or clarify their support of a treaty.) The reservations stated that before the United States could be judged by an international court, it would have to accept the jurisdiction of the court.

**“[T]he sovereignty of our Nation and the freedom of our people have been protected against assault by the World Court.”**

—Senator Jesse Helms

## **After the Cold War**

The end of the Cold War in the late 1980s revitalized the United Nations. The UN led peacekeeping missions in war-torn countries and provided humanitarian relief to combat starvation and disease around the world. The human rights standards that were established as founding principles of the UN gained new meaning. The international community enacted economic sanctions and took military action to punish or prevent extreme abuses of human rights.

### **What is the future of international cooperation?**

Although international cooperation has

increased significantly in the past half century, it rests on disputed underpinnings. The human rights values championed by the UN and others are not without critics.

How far these human rights will be extended in the twenty-first century is open to question. China, Russia, and other non-Western powers, as well as conservative critics in the United States, contend that an emphasis on human rights will topple a crucial pillar of the international system—the principle of state sovereignty. Defenders of state sovereignty maintain that states should be free from external control. Those who wish to prioritize human rights argue that there must be limits to state sovereignty, particularly when universal human rights are at stake.

**“Sovereignty implies conducting an independent foreign and internal policy, building of schools, construction of roads...all types of activity directed towards the welfare of people. Sovereignty cannot be conceived as the right to kill millions of innocent people.”**

—Raphael Lemkin

**What events indicated a change in the international attitude toward state sovereignty?**

**The Kurds of Northern Iraq:** When the first war against Iraq ended in 1991, U.S. forces set up a UN operation in northern Iraq to protect the 3.7 million Kurds who had been targeted previously in a genocide by Saddam Hussein. Until the second war on Iraq in 2003, the Kurds depended largely on the international community to protect them from the Iraqi army and to provide them with relief supplies. Active international

involvement in the sovereign state of Iraq in order to protect the Kurds from further acts of genocide and for humanitarian purposes set an important precedent and marked a changing tide internationally.

**Kosovo:** The war against Yugoslavia in 1999 also represented a critical turning point. For the first time, a U.S.-led international coalition launched a war specifically to stop a government from carrying out human rights violations and genocide against Kosovar Albanians (a minority group) within its borders. The United States and its allies placed safeguarding human rights above preserving state sovereignty. This intervention did not have the support of the UN Security Council because of opposition from China and Russia. Chinese and Russian leaders argued that this concern for human rights was simply a ploy to bolster the influence of the United States and its NATO allies. Their staunch opposition to the intervention in Kosovo exposed a disagreement over what principles should govern international relations.



UN Photo/HI Davies

The British aid organization OXFAM installing a water supply system at Stankovac 1 in April, 1999. Stankovac 1 was the first refugee camp established by NATO and supported by the UN, five kilometers from the Kosovo border in Macedonia.



***What do other critics of human rights interventions say?***

Other critics of the United States and its allies point to a double standard in promoting human rights or preventing genocide. They note that Western countries have been reluctant to intervene in regions where they lack financial interests and military bases. In the 1990s, for example, the West stood on the sidelines as governments in Sudan and Rwanda conducted wars and massacres that claimed millions of lives.

***Why has the United States resisted joining the International Criminal Court?***

The International Criminal Court (ICC) represents an attempt by the international community to put in place a permanent court to try those accused of genocide and war crimes. One hundred and thirteen countries

have ratified the 1998 agreement, known as the Rome Statute, that established the court. The United States refuses to ratify it in its present form. The ICC's critics in the United States note that the language of the treaty is unclear and could allow for politically motivated and unfair prosecutions. In addition, they point out that certain rights protected by the U.S. Constitution, like a trial by jury, would be lost for a U.S. citizen tried by the international court.

The ICC's supporters counter that if a country investigates and tries its own citizens for the crimes then the ICC does not have jurisdiction. U.S. supporters of the court believe that an international system of justice like the ICC furthers the cause of international human rights and the rule of law. Whether the United States can resolve these disagreements or renegotiate parts of the treaty remains to be seen.

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**W**hile most people in the United States agree with the sentiment "never again," what this means for policy is unclear. The role of the international community and the United States in preventing genocide remains to be determined. In the next section you will have the opportunity to examine five historical case studies of genocide that give a brief overview of the responses of the United States and the international community.